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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/053,310

11/02/2001

Timothy M. O'Neil

PA2087 US

5803

29855

7590

08/15/2006

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,  
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20333 SH 249

SUITE 600

HOUSTON, TX 77070

EXAMINER

HSU, ALPUS

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/053,310

Applicant(s)

O'NEIL, TIMOTHY M.

Examiner

Alpus H. Hsu

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 18-22 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-22, 34-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Claims 18 and 34 recites the limitation "the calendars" in lines 11 and 7, respectively.

There is insufficient antecedent basis for this limitation in the claim.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-22, 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCHAFFER (of record), hereinafter referred as Schaffer, in view of BREITENBACH (of record), hereinafter referred as Breitenbach.

Referring to claims 18 and 34, Schaffer discloses a network server (100a which includes 112a) configured to facilitate communication among a plurality of endpoints (102a and 103a), the server comprising: a network management system (105a) configured to automatically and dynamically coordinate cascading of two or more multipoint control units for expanding a number of endpoints in a multi-point conference (col. 4, lines 18-35, 59-63); a gatekeeper (108a) configured to implement one or more network policies set by a network administrator (col. 4, lines 38-42, col. 5, lines 8-32), wherein the network policies include one or more items selected from the group consisting of: call authorization, call management, network bandwidth management (col. 3, line 57 to col. 4, line 17); and a resource scheduler (105) configured to coordinate the multipoint conferencing and relay conference requests to MCUs (col. 3, lines 28-33).

Schaffer differs from the claims, in that, it does not disclose a specific resource scheduler to perform one or more activities selected from the group consisting of: interacting with the

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calendars of others on the network, sending conference invitations to others on the network, updating participant calendars upon acceptance of an invitation, and communicating with the gatekeeper upon receiving a conference request from one of the endpoints, which is well known element in the art and commonly used in networking for resource allocation and event scheduling purposes.

Breitenbach, for example, from the similar field of endeavor, teaches the use of a specific resource scheduler for performing one or more activities selected from the group consisting of: interacting with the calendars of others on the network, sending conference invitations to others on the network, updating participant calendars upon acceptance of an invitation, and communicating with the gatekeeper upon receiving a conference request from one of the endpoints (paragraph [0017], [0266] to [0269]) for resource allocation and event scheduling purposes as claimed.

Therefore, it would have been obvious to one of ordinary skill in the art to adopt the feature of utilizing a specific resource scheduler in replacing the scheduler in Schaffer to maximize the bandwidth allocation to further improve the system efficiency.

Referring to claims 19 and 35, Schaffer discloses a gateway (106a) operative to provide interface functionality between different network types,

Referring to claims 20 and 21, Schaffer discloses the resource scheduler resides in the network management system or in one or more of the plurality of endpoints (col. 3, lines 36-37).

Referring to claims 22 and 36, Breitenbach discloses that the network policies implemented by the gatekeeper vary as a function of time of day or day of week (paragraph [0078] to [0080], [0146], [0266] to [0271]).

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4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oran '574 & '594, Vaid, Iwama et al., Yaakov, and Rakoshitz et al. are further cited to show the common feature of communication system utilizing network server, network management system, gatekeeper and gateway similar to the claimed invention.

5. Applicant's arguments filed June 13, 2006 have been fully considered but they are not persuasive.

In the remark, the applicant argued that the rejection of claims 1 8-22 and 34-36 based on the combination of Breitenbach and Schaffer fails to meet at least two requirements:

First, the applicant argued that the proposed combination does not teach each element of the claim, i.e. none of the identified elements of Shaffer is part of the server 1 12a.

The examiner disagrees since by broadly interpreting the element 100a, which includes the server 1 12a, as the claimed network server, Schaffer clearly still meets the requirement of the combination.

Second, the applicant further argued that there is no suggestion or motivation to combine the references by stating that Schaffer reference is related to the field of video conferencing, and Breitenbach is related to computer software for coordinating the scheduling and planning of events.

The examiner also disagrees since in Schaffer reference, it clearly discloses that the invention is related to multipoint conferencing encompassing the use of any multimedia information, utilizing MCUs, gateways, gatekeepers, servers, and other devices such as PCs (see col. 2, line 65 to col. 3, line 14). The Schaffer reference further discloses the resource utilization

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(see col. 3, line 67 to col. 4, line 35), which can be carried out in flow charts as in Figures 4 and 5, which clearly can be implemented by software as taught by Breitenbach.

In view of the above reasoning, the examiner believes that the 103(a) rejection is appropriate and should be sustained.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

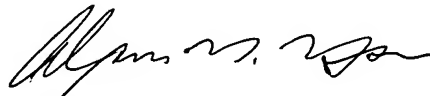
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AHH



Alpus H. Hsu  
Primary Examiner  
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